IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 2909 of 2002

Between:

1 Sanaboina Satyanarayana, S/o. Venkanna,
R/o. Aswaraopeta, Khammam District.
2 Kottapalli Raju, S/o. Rama Chandra Rao,
R/o. Aswaraopeta, Khammam District.
3 Illuri Appala Swamy, S/o. Narasimham Murthy,
R/o. Aswaraopeta, Khammam District.
4 Pilli Verraju, S/o. Laxman Rao,
R/o. Aswaraopeta, Khammam District.
5 Guttikonda Prakash, S/o. Venkateshwara Rao,
R/o. Aswaraopeta, Khammam District.
6 Lingisetti Prasada Rao, S/o. Nageswara Rao,
R/o. Aswaraopeta, Khammam District.
7 Bukkuri Parvathi, W/o.Appala Swamy,
R/o. Aswaraopeta, Khammam District.
8 Medavarapu Haribabu, S/o.Ramachandra Rao,
R/o. Aswaraopeta, Khammam District.
9 Tirumalasetti Satyanarayana, S/o.Venkanna,
R/o. Aswaraopeta, Khammam District.
10 Polisetti Rama Rao, S/o.Jinna,
R/o. Aswaraopeta, Khammam District.
11 SK.Ahmed Jani, S/o.Jinna,
R/o. Aswaraopeta, Khammam District.
12 Kurcheela Nageswara Rao, S/o.Venkanna,
R/o. Aswaraopeta, Khammam District.
13 Karpurapu Suryanarayana, S/o.Subba Rao,
R/o. Aswaraopeta, Khammam District.
14 Paila Satyanarayana, S/o.Papayya,
R/o. Aswaraopeta, Khammam District.
15 Polisetti Satyanarayana, S/o.Gaddaiah,
R/o. Aswaraopeta, Khammam District.
16 Paladagula Venkata Subba Rao, S/o.Ramayya,

R/o. Aswaraopeta, Khammam District.
17 Paladagula Pedda Subba Rao, S/o.Polaiah,
R/o. Aswaraopeta, Khammam District.
18 Metta Anantha Rao, S/o.Suryanarayana,
R/o. Aswaraopeta, Khammam District.
19 Bollineni Radhakrishna Murthy, S/o.Govindaiah,
R/o. Aswaraopeta, Khammam District.

20 Chebrolu Rama Rao, S/o.Veeraiah,
R/o. Aswaraopeta, Khammam District.
21 Kolatampalli Velayudam, S/o.Narayanan,
R/o. Aswaraopeta, Khammam District.
22 Sanaboina Eswara Rao, S/o.Venkanna,
R/o. Aswaraopeta, Khammam District.
23 Gyanadrushti Prasad, S/o.Balaram,
R/o. Aswaraopeta, Khammam District.
24 Shaik Baji, S/o.Khaja,
R/o. Aswaraopeta, Khammam District.
25 Sanaboina Lava Raja, S/o.Venkanna,
R/o. Aswaraopeta, Khammam District.
26 Jaladani Mallikarjuna Rao, S/o.Suranna,
R/o. Aswaraopeta, Khammam District.
27 Gajavali Srinivasa Rao, s/o.Nageswara Rao,
R/o. Aswaraopeta, Khammam District.
28 Chukka Satyavati, S/o.Narasimham Murthy,
R/o. Aswaraopeta, Khammam District.
29 Paddam Rama Rao, S/o.Narayana,
R/o. Aswaraopeta, Khammam District.
30 Sanaboina Veerabhadram, S/o.Venkanna,
R/o. Aswaraopeta, Khammam District.
31 Prajapati Swaroopa Rao, S/o.Sahnaji,
R/o. Aswaraopeta, Khammam District.
32 Padamanabhuni Kesava Rao, S/o.Satyanarayana,
R/o. Aswaraopeta, Khammam District.
33 Shaik Pedda Mastan, S/o.Sattar,
R/o. Aswaraopeta, Khammam District.
34 Lingisetti Hanumantha Rao, S/o.Nageswara Rao,
R/o. Aswaraopeta, Khammam District.
35 Paddam Yellaiah, S/o.Jagga Rao,
R/o. Aswaraopeta, Khammam District.
36 Shaik Madarabi, w/o.ramzan,
R/o. Aswaraopeta, Khammam District.
37 Pedapudi Venkataramana, s/o.Godari,
R/o. Aswaraopeta, Khammam District.
38 Karpurapu Satyanarayana, S/o.Subba Rao,
R/o. Aswaraopeta, Khammam District.
39 Mididadla Subrahmanyam, S/o.Venkateshwara Rao,
R/o. Aswaraopeta, Khammam District.
40 Badarala Parvathi, w/o.Venkateswara Rao,
R/o. Aswaraopeta, Khammam District.
41 Gunda Ram Babu, S/o.Veera Rahavalu,
R/o. Aswaraopeta, Khammam District.
42 Musuku Venkataramana, S/o.Venkateswara Rao,

R/o. Aswaraopeta, Khammam District.
43 Baisani Subba Lakshmi, W/o.Anantaiah,
R/o. Aswaraopeta, Khammam District.
44 Nalle Sreenu, S/o.Sri Rama Murthy,
R/o. Aswaraopeta, Khammam District.
45 Annavarapu Gangachalam, S/o.Ramulu,
R/o. Aswaraopeta, Khammam District.

46 Cheemakurthi Vishweswara Rao, S/o.Ramulu,
R/o. Aswaraopeta, Khammam District.
47 Raavivenkata Purnachandra Rao, S/o.Venkata Subbaiah,
R/o. Aswaraopeta, Khammam District.
48 Bandari Sreenu, S/o.Peeter,
R/o. Aswaraopeta, Khammam District.
49 Katla Prasad, S/o.Basvaiah,
R/o. Aswaraopeta, Khammam District.
50 Tiruvalluru Ramesh Babu, S/o.Venkateswara Rao,
R/o. Aswaraopeta, Khammam District.
51 Kola Ramaswamy, S/o.Laxmaiah,
R/o. Aswaraopeta, Khammam District.
52 Gyanadrushti Ramu, S/o.Balaram,
R/o. Aswaraopeta, Khammam District.
53 Shaik Yousuf, S/o.Akbar
R/o. Aswaraopeta, Khammam District.
54 Alladi Narayana, S/o.Papaiah,
R/o. Aswaraopeta, Khammam District.
55 Patcha Satyanarayana, S/o.Rattaiah,
R/o. Aswaraopeta, Khammam District.
56 Devarakonda Nagamutyam, S/o.Nagesh,
R/o. Aswaraopeta, Khammam District.
57 Yelamandala Subba Rao, S/o.Koteshwara Rao,
R/o. Aswaraopeta, Khammam District.
58 Lingisetti Durga Rao, S/o.Jaggulu,
R/o. Aswaraopeta, Khammam District.
59 Gatla Sarweswara Rao, S/o.Ramulu,
R/o. Aswaraopeta, Khammam District.
60 Madupu Venkataramana, S/o.Subba Rao,
R/o. Aswaraopeta, Khammam District.
61 Lingisetti Pulla Rao, S/o.Nagesh,
R/o. Aswaraopeta, Khammam District.
62 Lingisetti Venkateswara Rao, S/o.Jaggulu,
R/o. Aswaraopeta, Khammam District.
63 Panuganti Joga Chari, S/o.Poorna Chari,
R/o. Aswaraopeta, Khammam District.
64 KancherlaVasu, S/o.Veerabhadram,
R/o. Aswaraopeta, Khammam District.
65 Padmabhuni Ramu, S/o.Kesava Rao,
R/o. Aswaraopeta, Khammam District.

..... PETITIONERS

AND

1 The District Collector, Khammam District, Khammam.
2 The Mandal Revenue Officer, Aswaraopeta Mandal,

Khammam District.
3 The Assistant Engineer, Roads & Buildings Dept., Aswarapeta, Khammam District.
4 The Deputy Executive Engineer, Roads & Buildings Dept., Sathupally, Khammam District.
5 The Executive Engineer, Roads & Buildings Dept., Khammam, Khammam District.
6 The Depot Manager, A.P.S.R.T.C., Aswaraopeta, Khammam District.

7 J.Satyanarayana, S/o.Veerabhadram,

aged 49 years, Occ : Business,

resident of Ashwaraopet,

Shivaiahgari Veedhi,

Khammam District.

8 Koduri Baby Rajeshwari,

W/o.Durga Rao, aged about 30 years,

R/o.H.No.7-22, Ashwaraopet,

Khammam District.

9 K.Durga Rao, S/o.Manikyala Rao,

aged 36 years, Occ:Business,

R/o.H.No.7-22, Ashwaraopet,

Khammam District.

10 K.B.S.Manikyala Rao, S/o.Nagabhushanam,

aged 36 years, Occ:Business,

C/o.Revathi Cloth Show Room,

Main Road, Ashwaraopet,

Khammam District.

11 J.Srirama Murthy, S/o.Rama Rao,

aged about 36 years, Occ:Business,

C/o.Revathi Cloth Show Room,

Main Road, Ashwaraopet,

Khammam District.

12 Prajapathi Mamatha Ram, S/o.Shivaji,

aged 36 years, C/o.Bhavani Sweat Stall,

Eluru Road, Jeebugunilli,

West Godavari District.

(R-7 to R-12 were impleaded as per

court order dated 06-12-2004

in W.P.M.P.No.26952 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Mandamus declaring the action of the respondents in dispossessing the petitioners herein from the land and sheds situated adjacent to APSRTC complex, Aswaraopet Village, Khammam District as highly illegal, arbitrary, unjust improper and against the principles of natural justice and consequently direct the respondents not to disposes the petitioners from their sheds situated adjacent to APSRTC complex, Aswaraopet Village, Khammam District.

Counsel for the Petitioners: MR.BADANA.BHASKARA RAO

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition has been filed by the petitioners, who are 65 in number, with a prayer to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in dispossessing them from the land and sheds situated adjacent to APSRTC complex, Aswaraopet village, Khammam District, as highly illegal, arbitrary, unjust improper and against the principles of natural justice.

2. One Sanaboina Satyanarayana has given his sworn affidavit in support of the writ petition.

3. The affidavit averments in brief are:-

The petitioners are petty traders doing their vending business in their respective small sheds built on the road side adjacent to the compound wall of the 5th respondent and they are doing their respective business such as fruit vending, flowers, hair cutting saloons, pan shops, tailoring shops, cycle repairing shops, vegetable shops, sweet shops, cool drink shops and such other businesses for the last more than thirty years and eking out their livelihood. The petitioners are having electricity connections with Service Consumer numbers to their respective shops and they are paying the electricity charges regularly. They are also paying taxes to the Gram Panchayat for their respective shops and the same is evidenced by the receipts issued by the Gram Panchayat. The respondents came to the shops of the petitioners on 01-02-2002 and threatened to evict them from the sheds. Hence, the petitioners have filed this writ petition seeking the relief as stated supra.

4. Respondents 7 to 12 came on record in pursuance of the order dated 06-12-2004 passed in W.P.M.P.No.26952 of 2004.

5. The second respondent filed counter affidavit contending that the Department will follow the procedure prescribed under A.P.Land Encroachment Act, 1905, in evicting the petitioners from the sheds in their occupation.

6. I deem it appropriate to refer para Nos.2 and 3 of the counter affidavit and it is thus:

> "It is submitted that the petitioners are encroached the road and doing small business on the road side at the compound wall of respondent No.5. All the petitioners are doing business on the road side paying tax to Gram Panchayat,

Aswaraopeta, having electricity connections with Service Consumer numbers by constructing temporary shed. The Revenue Department never forced the petitioners to vacate the sheds.

It is respectfully submitted that if the petitioners have to be evicted, this department will follow the procedure under A.P.Land Encroachment Act, 1905 and it is further submitted that un-lawfully no petitioner will be evicted."

7. The 6th respondent filed counter affidavit. One M.Sudhir Reddy has sworn to the counter affidavit. It is stated in the counter affidavit that A.P.S.R.T.C. Aswaraopet, constructed shops at the bus station under DOT (Deposit Operate and Transfer) Scheme and the successful bidders are constantly approaching the office of the 6th respondent for early handing over the said shops. It has become difficult to handover the shops to the successful bidders as there are encroachments adjacent to the bus station which are causing obstruction to these shops.

8. Learned counsel appearing for the petitioners submits that the possession of the petitioners over the sheds in dispute is long standing and the same has been accepted by the second respondent in the counter affidavit and thus the petitioners cannot be evicted without following the procedure prescribed under law.

9. Learned counsel appearing for the 6th respondent submits that because of the illegal encroachment of road margins by the writ petitioners, the 5th respondent is not in a position to handover the shops constructed under DOT Scheme to the successful bidders and thus the writ petitioners are not entitled to any relief.

10. Learned counsel appearing for the 7th to 12th respondents submits that the writ petitioners being encroachers on a public road margins, they are not entitled to any notice before being evicted from the said road margins. Reliance has been placed

on the decisions of the Supreme Court in ***MAHARASHTRA EKTA HAWKERS UNION*** v ***MUNICIPAL CORPORATION, GREATER MUMBAI*** and ***SODAN SINGH*** v ***NEW DELHI MUNICIPAL COMMITTEE*** and also the decision of our High court in ***JUBLIEE HILLS LABOUR WELFARE ASSOCIATION*** v ***MUNICIPAL CORPORATION OF HYDERABAD, KHAIRATABAD***.

11. The claim of respondents 7 to 12 is beyond the scope of the writ petition and therefore, their contentions need not be considered in this writ petition.

12. The grievance of the petitioners is that respondents 1 to 6 are trying to evict them without following the due procedure prescribed under law. The second respondent has filed counter affidavit stating that the petitioners will be evicted by following the procedure prescribed under A.P.Land Encroachment Act, 1905. Such is the specific assertion made by the 2nd respondent, I deem it appropriate to dispose of the writ petition directing the 1st to 6th respondents not to interfere with their business activities until they are evicted in accordance with the provisions of A.P.Land Encroachment Act, 1905.

13. Accordingly, the writ petition is disposed of. No order as to costs.

_____

28-06-2005

Prv

To

1 The District Collector, Khammam District, Khammam.
2 The Mandal Revenue Officer, Aswaraopeta Mandal,

Khammam District.
3 The Assistant Engineer, Roads & Buildings Dept., Aswarapeta, Khammam District.
4 The Deputy Executive Engineer, Roads & Buildings Dept., Sathupally, Khammam District.
5 The Executive Engineer, Roads & Buildings Dept., Khammam, Khammam District.
6 The Depot Manager, A.P.S.R.T.C., Aswaraopeta, Khammam District.

7 Two CCs to G.P. for Revenue, High Court of Andhra Pradesh,

Hyderabad (OUT).

8 Two CD copies.